



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

NK

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

09/373,205 08/12/99 ROBERT L 99-0270

QM12/0307

KAARDAL AND ASSOCIATES PC
ATTN IVAR M KAARDAL
3500 SOUTH FIRST AVENUE CIRCLE SUITE 250
SIOUX FALLS SD 57105-5807

EXAMINER

VIDOVICH, G

ART UNIT

PAPER NUMBER

3727

DATE MAILED:

03/07/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/373,205

Applicant(s)
Robert

Examiner
Gregory M. Vidovich

Group Art Unit
3727



☒ Responsive to communication(s) filed on Aug 12, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-9 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☒ Claim(s) 9 is/are allowed.

☒ Claim(s) 1-8 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 3727

DETAILED ACTION

Specification

1. The disclosure includes the following informalities: .
 - a) claim 1, line 7, "being" apparently should be deleted;
 - b) claim 9, lines 6, 16, and line 19, "being" apparently should be deleted, and line 39, after "of" applicant should insert --said--. Appropriate correction is requested.

Claim Objections

2. Claim 9 is objected to because of the following informality: regarding claim 9, line 42, after "through" applicant should insert --a respective one of--. Appropriate correction is required.

Claim Rejections - 35 U.S.C. § 112

3. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 4, it is unclear as to which pad applicant intends, that defined in claim 3, that defined in claim 1, or both.

Art Unit: 3727

Claim Rejections - 35 U.S.C. § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Washington.

Regarding claim 1, the Washington reference discloses an equipment case (see lead line 10) comprising an upper cover (see lead line 22) as claimed, a lower cover (see lead line 24) as claimed, clasp means (see lead line 36), an equipment retaining pad (50) having a cut out (see lead line 52) for conformably receiving a piece of equipment, and a plurality of vehicle attachment means (42) as claimed. The initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over that disclosed by Washington which is capable of being used in the intended manner, i.e., a gun case if so desired (see MPEP 2111). Applicant does not claim a gun, not does applicant relate a gun to the structure defined in the body of the claim.

Regarding claims 2 and 3, see figure 1 and lead line 51.

Regarding claim 4, it is the examiner's position that it is well known in the art that the pad is made from an elastomeric material.

Art Unit: 3727

Claim Rejections - 35 U.S.C. § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rasor in view of Wills.

Regarding claim 1, the Wills reference discloses an equipment case comprising an upper cover (see lead line 10) as claimed, a lower cover (see lead line 20) hingedly attached (see lead lines 46 and 52) as claimed, clasping means (first and second portions of lock 80), and a plurality of vehicle attachment means (see lead lines 86a-86d). Although the lower cover does not include an equipment retaining pad, attention is directed to the Wills reference which discloses another equipment case for attachment to a vehicle wherein the case includes an upper cover (see lead line 16'), a lower cover (see lead line 18'), and retaining pads (see lead lines 140 and 142) each insertable into a respective one of the covers (see figures 10-12). Wills further discloses that the pads may include cut out portions (see column 8, lines 50-58 wherein the reference clearly discusses that cutouts may be used if so desired) to help retain articles securely within the case. In light of the teachings in Wills, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a pad having cutouts in the lower cover and, for that matter, a pad in the upper cover of the Rasor device in order to provide a means to securely retain equipment

Art Unit: 3727

placed therein. The initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over that disclosed by Rasor as modified above which is capable of being used in the intended manner, i.e., a gun case if so desired (see MPEP 2111). Applicant does not claim a gun, not does applicant relate a gun to the structure defined in the body of the claim.

Regarding claim 4, the pads in the Rasor device as modified above is made of elastomeric material (see column 8, line 4 in Wills wherein it is well known that the foam material disclosed therein has elastomeric properties).

Regarding claim 5, see lead lines 32 and 44 in Rasor.

8. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rasor in view of Wills as applied above, and further in view of Wentz.

Regarding claims 6 and 7, although the clasping means in Rasor is not connected as claimed and the lower lip does not include a channel as claimed, attention is directed to the Wentz reference which discloses another case (10) having a top cover (14) having a lip (33), a bottom cover (12) having a lip (29), clasping means (see lead lines 59 and 68) connected to the respective lips of the covers, and a channel in the lower lip (see lead line 26 in figure 1D) for receiving an elastomeric seal to help waterproof the case. In light of the teachings in Wentz, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a clasping means and elastomeric seal with respect to the lips in Rasor in order to help waterproof the container.

Art Unit: 3727

9. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rasor in view of Wills as applied above, and further in view of Bradley et al.

Regarding claim 8, although the cutouts do not include a semicircular cutout as claimed, it is well known in the art to provide a semicircular cutout along the periphery of a padded cutout to facilitate removal of the equipment held by the padded cutout. In any event attention is directed to the Bradley reference which discloses another cutout (see lead line 30) for equipment wherein the cutout includes a semicircular cutout therewith. In light of the teachings in Bradley and that which is well known in the art, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide at least one semicircular cutout in connection with the equipment cutouts of the Rasor device as modified above to facilitate removal of the equipment therefrom.

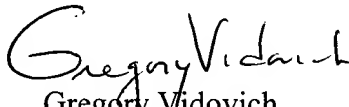
10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Cheney, Moscovitch, Kappas, Walker, Tarot, Mechanix Illustrated, Belokin, and Bott references each disclose an equipment holder.

Allowable Subject Matter

11. Claim 9 is allowable over the prior art of record.

Art Unit: 3727

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory Vidovich whose telephone number is (703) 308-1513.


Gregory Vidovich
Primary Examiner
Art Unit 3727

gv
March 3, 2000